IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.1808 of 2006

Date of Decision:9.11.2006

Sudesh Malik

....Petitioner.

Versus

State of Haryana

...Respondent.

CORAM : Hon'ble Mr.Justice M.M.Kumar.
Hon'ble Mr. Justice M.M.S.Bedi.

Present:- Mr.R.K.Malik, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG Haryana.

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M.M.KUMAR, J.(ORAL)

The prayer made by the petitioner in the instant petition is that she is entitled to be considered for promotion as principal from 6.8.2003 when persons junior to her were so promoted.

It is admitted case of the parties that the petitioner had refused promotion on 31.7.2002 by putting forward an excuse that her family circumstances were not favorable. However, on the basis of instructions issued by the Chief Secretary on 2.11.1992, the refusal of promotion by an employee is not to stay in her way for all times to come, it would be a bar for a period of one year. In other words her claim became alive again on 31.7.2003 especially when junior to her were considered and promoted on 6.8.2003.

In reply to the petition official respondent has taken a stand that

the petitioner has also been promoted vide order dated 7.3.2006 (Annexure R1) from the instant date.

Mr. R.K.Malik, learned counsel for the petitioner states that immediate relief of promotion has been granted to the petitioner, but her claim of retrospective promotion on the post of principal, as the junior persons to him have been promoted, still survive. Learned counsel had requested that he may be permitted to withdraw the petition with liberty to approach the department for grant of retrospective date of promotion, when junior to her were promoted on 6.8.2003. In that regard he may be permitted to file a representation to the respondent-department.

After hearing learned counsel for the parties, we are of the view that the request made by learned counsel for the petitioner is meritorious and deserves to be accepted.

Accordingly, we allow the withdrawal of the writ petition with liberty to the petitioner to move an appropriate representation to the respondent to consider her case for promotion from a retrospective date when persons junior to her were promoted. Let representation in that regard be made under register AD cover through proper channel and the same be decided within a period of three months from the date of its receipt.

(M.M.KUMAR)
JUDGE

Nov 9, 2006.
Reema.

(M.M.S.BEDI)
JUDGE